IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

WP(C).No. 30873 of 2006(A)

OP(E).44/2005 of MUNSIFF COURT, TIRUR

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PETITIONER:

KALIYARVATTATH BEERAN,
AGED 55 YEARS, S/O.MOIDHEENKUTTY,
KUTTIPURAM AMSOM, PAINKANNUR DESOM,
MALAPPURAM DIST.

BY ADV. SRI.PROMY KAPRAKKATT
SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH
SMT.P.K.BEENA

RESPONDENTS:

KANKUNNATH ABDUL ASEES,
S/O.MOIDUTTY, KUTTIPURAM AMSOM,
PAINKANNUR DESOM, MALAPPURAM DIST.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J
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W.P.(C). NO. 30873 Of 2006
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Dated this the 22nd day of November, 2006

J U D G M E N T

The election petitioner challenges refusal of the trial court to reopen the evidence. The impugned order has been passed relied on the decision of the Apex Court in **Achuthanandan** v. **Francis** (2001 (1)KLT 740(SC) regarding the secrecy of the ballot. I do not venture to go into the correctness of Ext.P2 order or the order that followed, since the said orders can be effectively challenged in an appeal against the final decision of the Election Court, if the writ petitioner would then stand agreed by the final disposal of the election case. I do not find any ground to interfere with the impugned orders in exercise of the authority under Article 227 of the Constitution of India. Under such circumstances, without expressing anything on merits, leaving open the right of the petitioner to challenge Ext.P1, P2 and P3 orders in appeal, if any, against the final decision in the election case, this writ petition is dismissed.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

SJ